IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application of:	Ding *et al.*	Confirmation No.:	3400
Serial No.:	10/679,057	Art Unit:	1762
Filed:	October 3, 2003	Examiner:	Cameron, Erma
For:	MEDICAL DEVICES WITH POROUS SURFACE FOR CONTROLLED DRUG RELEASE AND METHOD OF MAKING THE SAME	Attorney Docket No: CAM No.:	10177-239-999 008563-999236

RESPONSE TO NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF

Mail Stop Appeal Brief—Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

In response to the Notification of Non-Compliant Appeal Brief dated March 21, 2007 ("Notification"), Appellant submits herewith a new "Summary of Claimed Subject Matter" (Section V of the appeal brief that was originally filed on January 5, 2007), which is attached hereto in Appendix A. It is respectfully submitted that the attached "Summary of Claimed Subject Matter" complies with the requirements of 37 C.F.R. § 41.37(c)(1)(v).

No fee is believed to be due for this submission. However, should any additional fee be required, please charge such fee to Jones Day Deposit Account No. 50-3013. A copy of this sheet is enclosed for such purpose.

Respectfully submitted,

Date: April 23, 2007

Gidon D. Stern (Reg. No. 27,469)

By:

Linda B. Azrin (Reg. No. 44,516)
JONES DAY
222 East 41st Street
New York, New York 10017
(212) 326-3939

Enclosure

APPENDIX A

V. SUMMARY OF CLAIMED SUBJECT MATTER

The presently claimed invention relates to methods of making stents. (*See* claims 1 and 29). There are two independent claims, claims 1 and 29.

Independent claim 1 is directed to a method of making a stent having at least a portion for insertion or implantation into the body of a patient, wherein the stent comprises a sidewall having a plurality of openings therein. (For examples of these stents, *see* specification at page 5, lines 6-22). At least a part of the stent, such as a surface of the sidewall, is formed of a porous material having a plurality of voids therein (*see, e.g.*, page 3, lines 10-31) to release at least one biologically active agent therefrom (*see, e.g.,* page 3, lines 23-24 and 29-31).

The method of claim 1 comprises loading the porous material with the biologically active agent. (*See, e.g.,* page 3, lines 23-24; and Fig. 2). In particular, the method of claim 1 comprises forming a solution or suspension of the biologically active agent. (*See, e.g.,* page 4, lines 11-13). The stent is placed into this solution or suspension. (*See, e.g.,* page 4, lines 13-14; and page 10, lines 6-8). An electrode is also placed into the solution or suspension (*see, e.g.,* page 4, lines 13-14; page 10, lines 11-12; and Figure 2 (electrode 16 and solution or suspension 13)). An electric current is applied to the stent and the electrode (*see, e.g.,* page 4, lines 14-16; and page 10, lines 12-14) and at least some of the biologically active agent (*e.g.,* Fig. 2, drug 14) in the solution or suspension is allowed to be loaded into the voids (*e.g.,* Fig. 2, voids 12) of the porous material. (*See* page 4, lines 16-19; page 10, lines 14-26; and Fig. 2). The biologically active agent is releasable from the voids of the porous material of the stent when the stent is inserted or implanted into the body of a patient (*see, e.g.,* page 1, lines 7-17; and page 3, lines 29-31).

Independent claim 29 is directed to a method of making a stent having at least a portion for insertion or implantation into the body of a patient, wherein the stent comprises a sidewall having a plurality of openings therein and a surface adapted for exposure to body tissue of the patient. (*See, e.g.,* page 1, lines 7-9; page 3, lines 7-9; and page 5, lines 6-22). At least a part of the stent, such as a surface of the sidewall, is formed of a porous material having a plurality of voids therein (*see, e.g.*, page 3, lines 10-31) to release at least one biologically active agent therefrom (*see, e.g.,* page 3, lines 23-24 and 29-31).

The method of claim 29 comprises loading the porous material with the biologically active agent. (*See, e.g.,* page 3, lines 23-24; and Fig. 2). In particular, the method of claim 29 comprises forming a solution or suspension of the biologically active agent. (*See, e.g.,* page 4, lines 11-13). The stent is placed into this solution or suspension. (*See, e.g.,* page 4, lines 13-14; and page 10, lines 6-8). An electrode is also placed into the solution or suspension (*see, e.g.,* page 4, lines 13-14; page 10, lines 11-12; and Figure 2 (electrode 16 and solution or suspension 13)). An electric current is applied to the stent and the electrode (*see, e.g.,* page 4, lines 14-16; and page 10, lines 12-14) and at least some of the biologically active agent (*e.g.,* Fig. 2, drug 14) in the solution or suspension is allowed to be loaded into the voids (*e.g.,* Fig. 2, voids 12) of the porous material. (*See* page 4, lines 16-19; page 10, lines 14-26; and Fig. 2). The biologically active agent is releasable from the voids of the porous material of the stent when the stent is inserted or implanted into the body of a patient (*see, e.g.,* page 1, lines 7-17; and page 3, lines 29-31).